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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DEC 13 1996

Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of the Amateur Service  
Rules To Authorize Visiting  
Foreign Amateur Operators to  
Operate Stations in the United  
States.

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WT Docket No. 96-188

RM-8677

To: The Commission

COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED  
IN RESPONSE TO NOTICE OF PROPOSED RULE MAKING

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## SUMMARY

The American Radio Relay League, Incorporated (the League), the national association of amateur radio operators in the United States, submits its comments in response to the Notice of Proposed Rule Making (the Notice), FCC 96-375, 11 FCC Rcd. 11768, released September 20, 1996. The Notice proposes to amend the Amateur Service Rules to implement therein two existing conventions which will simplify amateur operation in the United States by visiting foreign radio amateurs. The Notice is based on a petition for rule making, RM-8677, filed by the League July 19, 1995, relative to the *Inter-American Convention on an International Amateur Radio Permit* (IARP).

The League finds the instant Notice proposal most gratifying, and heartily supports the principle that radio amateurs should be permitted to operate portable stations during temporary visits to other countries without obtaining individual temporary licenses. The League encourages radio amateurs from other countries to have the same accommodation during temporary visits to the United States. Amateur radio has always had as one of its fundamental purposes the continuation and extension of the radio amateur's unique ability to enhance international goodwill (47 C.F.R. §97.1). The regulatory barriers in the United States inherent in temporary permitting or licensing procedures are often sufficient to dissuade a visiting foreign radio amateur to bother with the process. The result is a lost opportunity to participate in some of the most gratifying aspects of the art of Amateur Radio, which is the sharing of ideas, technical experience and the refreshing of acquaintances.

With the changes specified in these Comments, most notably relating to the term of the IARP and the CEPT license in the United States, the League is satisfied that the Commission has made adequate provision for amateur operation by visiting foreign amateurs in the United States. This rule making should be finalized as soon as possible, in anticipation of the entry by the United States into the CEPT amateur licensing agreement and the existing obligations of the United States under the IARP Convention.

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To: The Commission

**COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED  
IN RESPONSE TO NOTICE OF PROPOSED RULE MAKING**

The American Radio Relay League, Incorporated (the League), the national association of amateur radio operators in the United States, by counsel and pursuant to Section 1.415 of the Commission's Rules (47 C.F.R. §1.415), hereby respectfully submits its comments in response to the Notice of Proposed Rule Making (the Notice), FCC 96-375, 11 FCC Rcd. 11768, released September 20, 1996. The Notice proposes to amend the Amateur Service Rules to implement therein two existing conventions<sup>1</sup> which will simplify amateur operation in the United States by visiting

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<sup>1</sup> The Inter-American Convention on an International Amateur Radio Permit (AG/doc.3216/95), a Convention adopted and opened for signature by the General Assembly of the Organization of American States (OAS) at its Twenty-Fifth Regular Session, held June 5, 1995 at Montrouis, Haiti, permits radio amateurs who are citizens of and licensed in states party to the convention to obtain an International Amateur Radio Permit (IARP) to operate temporarily in another country party to the convention without the delay and administrative burden involved in the issuance of a license by the administration of the visited country. The Inter-American Convention on an International Amateur Radio Permit will be referred to herein for convenience as

foreign radio amateurs. The Notice is based on a petition for rule making, RM-8677, filed by the League July 19, 1995, relative to the *Inter-American Convention on an International Amateur Radio Permit* (IARP). In support of the Notice Proposal, the League states as follows:

### **I. Introduction**

1. The League finds the instant Notice proposal most gratifying, and heartily supports the principle that radio amateurs should be permitted to operate portable stations during temporary visits to other countries without obtaining individual temporary licenses. The League encourages radio amateurs from other countries to have the same accommodation during temporary visits to the United States. Amateur radio has always had as one of its fundamental purposes the continuation and extension of the radio amateur's unique ability to enhance international goodwill (47 C.F.R. §97.1). The regulatory barriers in the United States inherent in temporary permitting or licensing procedures are often sufficient to dissuade a visiting foreign radio amateur to bother with the process. The result is a lost opportunity to participate

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the "IARP Convention".

A similar international agreement adopted by the European Conference of Postal and Telecommunications Administrations (CEPT), CEPT Recommendation T/R 61-01 (Nice, 1985, revised in Paris 1992 and by correspondence August 1992) permits issuance of a CEPT-endorsed license by a radio amateur's country of citizenship. The CEPT license holder can operate an amateur station temporarily in any participating CEPT country without additional licensing or permitting formality. This Recommendation will be referred to herein for convenience as the "CEPT Recommendation".

in some of the most gratifying aspects of the art of Amateur Radio, which are the sharing of ideas, technical experience and the refreshing of acquaintances.

2. To the extent allowed by international agreement, the Notice proposal would permit the widest flexibility in accommodation of visiting foreign radio amateurs, and thus encourage other countries to participate reciprocally, which benefits United States' radio amateurs who travel internationally. Furthermore, it would, as noted in the July 21, 1995 correspondence from the then Chief, International Bureau, to the Deputy Assistant Secretary for the Economic and Business Affairs Bureau, Department of State, reduce the Commission's administrative burden by eliminating the need to issue reciprocal permits to qualified holders of CEPT (and IARP) Amateur Radio Licenses or Permits when visiting the United States and its possessions.

3. The current status of the United States' participation in the IARP Convention and of its participation in the CEPT Recommendation are different. The United States is, and has been almost since the inception of the IARP Convention, a signatory thereof. The United States is not yet, as of this writing, a party to the CEPT Recommendation, though the Commission has heartily endorsed participation therein, in writing. United States participation is being coordinated through the United States Department of State, and is believed to be imminent.<sup>2</sup> It is reasonable to proceed

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<sup>2</sup> For more than two years, the CEPT countries, through their European Radiocommunications Office, have been encouraging the United States to participate in the CEPT amateur radio license program. On July 21, 1995, Scott Harris, then Chief, International Bureau, wrote to The Honorable Vonya McCann, Deputy Secretary for the Economic and Business Affairs Bureau, Department of State, and noted, in part, as follows:

with the implementation of these similar international agreements in the Commission's regulations simultaneously under the circumstances.

4. As the Commission's Notice states, there is ample statutory authorization for the recognition by the United States of both CEPT licenses and IARP documents, and the authorization of the United States for holders of such documents to operate in the United States and its possessions pursuant thereto. See, Sections 303(l)(3) and 310(c) of the Communications Act of 1934, as amended. The CEPT Recommendation and the IARP Convention are exactly the type of multilateral agreements envisioned in Section 303(l)(3) of the Communications Act.

5. Given the foregoing, the Commission properly concludes in the Notice that the Commission's rules should be amended to authorize, by rule, citizens of

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Because provisions of the Commission's Rules will be affected by participation in the CEPT agreement, our Wireless Telecommunications Bureau is preparing a Notice of Proposed Rule Making to provide the necessary modifications. These are largely administrative details on specific conditions applicable to CEPT licensees' privileges in the United States and will not delay our entry into the agreement. This rule making can proceed simultaneously with the process of entering into CEPT Recommendation T/R 61-01 as the agreement will be expressly subject to our domestic implementation.

In the meantime, we ask you to send a letter to the European Radiocommunications Office (ERO) applying for participation in CEPT Recommendation 61-01. I understand that the documentation to be submitted to the ERO should include information about FCC license classes (in order to equate them to CEPT classes) and the conditions that we require for participation. The needed information is attached.

The necessary Department of State correspondence with the ERO is, we understand, ongoing.

participating CEPT countries holding CEPT-issued radio amateur licenses, and citizens of participating CITEL countries holding IARPs to operate temporarily in the United States.

## **II. Specific Issues**

6. The Notice, at paragraph 8, would limit the temporary period for operation in the United States by non-U.S. citizens pursuant to a CEPT to a period not longer than 180 days within the immediately preceding five-year period. This term, and the means of calculating it, are intended to permit certain visiting foreign amateurs to operate during multiple visits to the United States, as well as those who operate here during only one instance. While the format for the restriction is reasonable in terms of insuring that it is not misused as a substitute for longer-term visitors in the United States, it would be difficult to enforce. Furthermore, the 180-day limitation within a five-year period appears unnecessarily restrictive. The League's Petition requested that an IARP be valid for up to one year from the date of arrival by the holder in the United States or its possessions, but it would not be valid beyond the date of expiration of the amateur license issued by the visitor's home country (the country of citizenship). While this alternative does require a foreign amateur who periodically travels to the United States to obtain a new IARP each year, it is objectively possible to determine how long he or she has been operating pursuant to that particular document.



7. It is difficult to understand the proposed 180-day limitation within any five-year term.<sup>3</sup> Surely, the Commission intends to limit reliance on CEPT licenses for those in the United States for longer periods, as long-term visitors who establish fixed stations, as opposed to hand-held or mobile operation, might be expected to demonstrate qualifications under domestic rules. However, for many years, the alien reciprocal permits [See, 47 C.F.R. §97.25(b)] issued by the Commission were, and still are, issued for one-year terms. There is nothing in the Notice<sup>4</sup> that would justify a shorter term for CEPT or IARP amateur operation. Finally, the reduction by half of the term of validity of an IARP is inconsistent with Article 3, Item 3 of the IARP Convention itself, and the Annex to the Convention (which sets forth the form for such documents). The IARP Convention states clearly that the IARP will be "valid for one year in the visited State Parties, but in no case beyond the date of expiration of the national license of the holder". Since the Commission does not have the jurisdiction to modify the terms of an international treaty document once the United States has become a party thereto, it cannot modify the specific terms of the Convention in this instance. The final rules adopted by the Commission should specify

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<sup>3</sup> In the Appendix attached to the Notice, the Commission proposes to create a rule (Section 97.107(c)(3) and (d)(3)) that would prohibit a visiting foreign amateur who has even been in an area where radio services are regulated by the FCC for more than 180 days in the past five years from utilizing an IARP or CEPT license in any portion of the United States or its possessions. This is clearly unjustifiable, since there is no nexus between the visit and any amateur operation.

<sup>4</sup> The only conceivable premise for a shorter term for CEPT and IARP holders to utilize those documents in the United States is that the Commission does not intend to maintain records of CEPT or IARP operation in the United States. That, however, is unrelated to the term of use of a particular CEPT license or IARP.

that a CEPT license or an IARP shall be valid for use by the holder for a period up to one year, but in no event longer than the term of the amateur license of the holder issued by his or her home country.

8. The League understands that no provision is made in the instant Notice for specialized amateur systems, such as repeater, beacon or auxiliary operation. Those sophisticated systems are generally more permanent, and normally, due to band crowding, require substantial local and regional coordination with other amateur operations. Because the Commission does not permit alien reciprocal permit holders to operate such stations, it is not expected that the rules would accommodate CEPT license holders or IARP holders to any different extent.

9. However, the Commission should not be mistaken about the sophistication of amateur operations to be conducted by visiting foreign amateurs pursuant to whatever authorization might be provided. Casual portable or mobile operation "of a relatively simple nature", as is apparently assumed at paragraph 8 of the Notice is not what is envisioned as the scope of foreign amateur operation. Complex microwave experimentation would be facilitated by the Notice proposal, as would extensive international radiosport competitions, such as that recently (and most successfully) concluded in the San Francisco Bay area of northern California. It is necessary that the Commission understand that the temporary nature of a visit from a foreign radio amateur is not indicative of the level of sophistication of the radio experiments to be conducted, or the type of operation which might be anticipated pursuant to a CEPT license or an IARP; nor is any restriction on such operation necessary, given the

tradition and need of radio amateurs to share information internationally concerning the results of their operations and their methods.

10. At paragraph 9 of the Notice, the Commission expresses some reservation that there would, under the Notice proposal, be no database of amateurs operating under CEPT licenses or IARPs in the United States at any given time. As the Notice states, that information would have to come from an agency of the country of issuance. The Commission further states: "Under the procedures proposed herein, operation would be authorized by rule rather than by the grant of a license or permit." While licensed, continuous operation domestically necessitates the maintenance of a database and the issuance of licenses for enforcement and self-policing purposes, the temporary nature of foreign amateur operation under CEPT licenses or IARPs largely vitiates that need. The station identification rules are sufficient means of allowing the Amateur Service to identify such licensees for any purpose, and the possession of a CEPT license or an IARP allows the verification of operating authority for any enforcement purposes. The maintenance of a database would seem unnecessary, as international callsign listings are readily available in compact disk or paper forms to verify operator information.

11. However, it is apparently necessary to clarify the nature of the authority for recognizing the CEPT licenses or IARPs in the United States, so that there is no misunderstanding or unintended precedent: foreign amateurs are *not* "authorized by rule" as the Commission states; they are, rather, authorized by the grant of a license or permit issued by their own government. That document is recognized in the United

States as the temporary equivalent, under certain conditions, of a license document. No amateur station is "authorized by rule" in the same sense as the Citizens Radio Service, or as Aviation and Marine stations are now licensed, and they would not be under the Notice proposal. The recognition of the CEPT license or IARP would be authorized by rule [thus to permit compliance with Section 303(l)(3) of the Communications Act of 1934], but the stations themselves would not be "authorized by rule" in the same sense as some stations are licensed domestically pursuant to Section 307(e) of the Communications Act of 1934.

12. The Commission properly, at paragraph 10 of the Notice, disclaimed any intention of participating in the issuance of CEPT-endorsements on United States amateur licenses, or the issuance of IARP documents. In the former case, the Commission intends for United States amateurs who are traveling to CEPT countries to rely on public notices, which could be carried with the United States amateur licensee on his or her travels internationally, as well as the otherwise required proof of citizenship and a United States Form 660 amateur license. For travel to countries signatory to the IARP Convention, the Commission states no objection to the League's plan for issuance of IARPs to United States Citizens. Indeed, because it is not a license, and because it does not convey any operating authority in any location in which the Commission has jurisdiction, the Commission would have no interest in the issuance of IARP documents. The United States Department of State would have primary jurisdiction to issue such documents, but the League has offered to serve in

a volunteer capacity to provide the same service without administrative cost to the Government, and it is anticipated that the Department of State may accept the offer.

13. At paragraph 11 of the Notice, the Commission proposes to preclude use of CEPT licenses and IARPs in the United States by United States Citizens and by resident aliens. By definition, the use in one's home country of CEPT licenses issued by a foreign government, or IARPs, is precluded for citizens of that country. An IARP issued in the United States to a United States citizen has no effect whatsoever, and authorizes no domestic operating privileges. A United States citizen is entitled to no privileges by a foreign government-issued CEPT license. Those restrictions are eminently reasonable. The situation relative to resident aliens is similar. In fact, the CEPT Recommendation states that it permits "radio amateurs from CEPT countries to operate during short visits in other CEPT countries without obtaining an individual temporary license from the visited CEPT country." The reference to "short visits" seems to preclude operation by resident aliens in a host country pursuant to a CEPT license. The Appendix I stating General Conditions for the issuance of a CEPT amateur radio license states that it will "be valid for non-residents only". The IARP Convention has no similar provision. However, because it envisions temporary operation only, it may be understood that resident aliens should not be entitled to utilize an IARP issued in the United States to any greater extent than should United States citizens.

14. The privileges to be authorized visiting foreign amateurs operating pursuant to CEPT licenses or IARPs should be as proposed. The CEPT license class definitions were used as the basis for determining the two classes of IARPs described at Article

3, Item 6 of the IARP Convention. The Class 1 and Class 2 CEPT and IARP license classes, therefore, are defined consistently, and correspond exactly, as the Commission has noted, to the Amateur Extra Class and Technician Class license privileges, respectively. The proposed operator privileges set forth in the Notice, therefore, are proper and correct, and should be implemented as proposed. The station identification requirements should be the same whether a visiting foreign amateur is operating pursuant to an IARP, a CEPT license, or an alien reciprocal license.

15. As a final matter, at footnote 5 of the Notice, the Commission lists the countries that have implemented the CEPT amateur licensing Agreement. This list is not, however, in agreement with the T/R 61-01 E, which is an ERO document that outlines the CEPT agreement. This file may be downloaded in its entirety from the ERO website. The League is also in possession of a document issued by the French Government, which lists CEPT countries which participate in the CEPT licensing arrangement, but which omits certain of the countries listed in Footnote 5 of the Notice. For example, New Caledonia, French Polynesia, Wallis and Futuna Islands, and French Southern and Antarctic Lands are not part of France, and the French do not include these territories in CEPT license arrangements. Any Report and Order adopted in this proceeding should verify the list against a current ERO listing, to avoid confusion. The League will endeavor to provide a correct list in reply comments in this proceeding. Similarly, it would appear that the list of Citel countries at footnote 9 of the Notice is incomplete. A complete list will be provided by the League in its Reply Comments herein.

16. With the foregoing changes, most notably relating to the term of the IARP and the CEPT license in the United States, the League is satisfied that the Commission has made adequate provision for amateur operation by visiting foreign amateurs in the United States. This rule making should be finalized as soon as possible, in anticipation of the entry by the United States into the CEPT amateur licensing agreement.

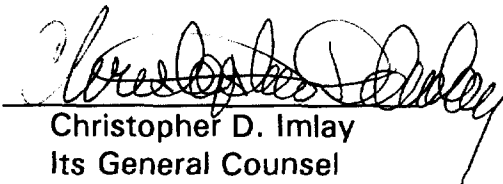
Therefore the foregoing considered, the American Radio Relay League, Incorporated, requests that the Notice proposal be modified to take into account the foregoing changes, and that a Report and Order be adopted at an early date implementing the Notice proposal as so modified.

Respectfully submitted,

**THE AMERICAN RADIO RELAY  
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